lations should be distributed with the principal. *Thurber* v. *Thurber,* (R. I., 1921), 112 Atl. 209.

The distribution of the accumulated surplus necessarily depends upon whether the estate of the life beneficiary is vested. *Rhode Island Hospital Trust Co.* v. *Noyes,* 26 R. I. 323. As to vesting the case is clearly distinguishable from cases where there is an absolute gift of income for support until the principal fund is payable. *Hanson* v. *Graham,* 6 Ves. Jr. 239; *In re Hart's Trusts,* 3 De G. & J. 195; *Booth* v. *Booth,* 4 Ves. Jr. 399; and from cases where the whole income is expressly given, subject to discretion as to time and terms of payment. *Endicott* v. *Univ. of Va.,* 182 Mass. 156. But see *Iasigi* v. *Shaw,* 167 Mass 328. The fact that there was no provision made for disposal of the surplus does not make it a gift of the entire income. *In re Sanderson's Trust,* 3 K. & J. 497. But in view of the language used in the will in the instant case, there is at least some basis for the guardian's contention that the testatrix intended the whole income to go to the beneficiary. As to disposal of unexpended accumulations of income, the general rule is that "they follow the fate of the principal." *Hanson* v. *Graham, supra.* If the principal fund or whole income has vested, the accumulations go to the life beneficiary, and on his death to his executor or administrator. *Rhode Island Hospital Trust Co.* v. *Noyes, supra* (see for collection of authorities); *Bayard* v. *Atkins,* 10 Pa. St. 15. But in *In re Sanderson's Trust, supra,* where the gift of income was not vested, the court made a distinction between surplus of income arising from personal estate and that arising out of real estate, holding that the former went, on death of the life beneficiary, with the principal fund, and the latter to the testator's heir at law. This distinction does not appear to have been recognized in the instant case. Nor was it noticed in *Demeritt* v. *Young, 72* N. H. 202 (no authorities cited), where the direction was to pay as much as might be "actually necessary for comfort and support," the court holding that the unexpended accumulation of income went to the remainderman. On the rights of the life tenant and remainderman in dividends, see PERRY, TRUSTS, Secs. 544, 545.

TRUSTS—RESULTING TRUST IN MORTGAGE LIEN ON PAYMENT TO REDEEM FROM FORECLOSURE.—The mortgagees had been awarded a judgment of foreclosure and the land had been sold to satisfy the judgment. The mortgagor being unable to raise sufficient funds to redeem, the defendant furnished 19/28 of the necessary funds. The mortgagor redeemed. In an action by the mortgagor to quiet title, the defendant cross-complained for an undivided 19/28 interest in the land on the theory of a resulting trust arising from his contribution to the redemption money. *Held,* that no resulting trust arises, the doctrine not being applicable to the case at bar. *Cochran* v. *Cochran,* (Wash., 1921), 195 Pac. 224.

In so far as the court's decision rested upon the nature of the mortgage as being merely a lien, it would seem that no valid distinction can be taken between resulting trusts arising in lien or in title theory states. In *Tobin* v. *Tobin,* 139 Wis. 494, it was held in a lien theory state that where one uses

another's money to make a loan and takes the mortgage in his own name, a resulting trust arises in favor of the one furnishing the money. A similar result has been reached under the title theory. *Tillman* v. *Murell,* 120 Ala. 239. On the other hand, it has been decided that where A's money has been used to pay off a second payment of a purchase money mortgage, no resulting trust arises, even in a title theory state, and such a case has been distinguished by the courts on the ground that a resulting trust must arise at the time the purchase is made and cannot arise subsequently. *Jacksonville Bank* v. *Beasley,* 159 Ill. 120. But the distinction seems unsound since the facts of legal importance are those which exist when the mortgage is discharged rather than those which led to its creation. 20 COL. L. REV. 103. If the facts of the principal case are approached from the point of view of subrogation, the conclusion reached would seem to be correct, since the facts fail to show an agreement to reconvey or an interest in the payor liable to foreclosure; JONES ON MORTGAGES, [7th Ed.], No. 874, *et seq.* Conceding that the debt is the principal thing, it has been held that a mere volunteer who pays the debt of another may require the debtor to ratify or repudiate the payment, in which case he may sue in his own name or in a court of equity as equitable assignee; *Crumlish Administrator* v. *Central Improvement Co.,* 38 W. Va. 390. It is submitted that the doctrine of resulting trust should not require a fee simple to support its creation. If the decision in the principal case can be justified at all, it must be on the ground that the doctrine of resulting trust had its origin under conditions which do not exist at the present time, and therefore should be limited in every possible way. See 20 HARV. L. REV. 555. At any rate it is clear that if a resulting trust did arise, it should be enforced only as to 19/28 of the mortgage lien and not as to an undivided interest in the land itself since the redemption had not been by the payor's money.

WORKMEN'S COMPENSATION—INJURY TO WATCHMAN ACCIDENTALLY SHOT IS ONE ARISING OUT OF EMPLOYMENT.—A night watchman, employed by a company which furnished subscribers with protection against burglary, was killed when he was accidentally shot by a police officer then in the pursuit of burglars, though they had not entered the building which the watchman was protecting. *Held,* (two justices dissenting,) that this was an injury "arising out of employment." *Heidemann* v. *American District Telegraph Co. et al.,* (N. Y., 1921), 130 N. E. 302.

In Workmen's Compensation cases there are almost invariably the questions: (1) Did the injury result from an "accident"? (As to this see 19 MICH. L. REV. 638). (2) Was it received "in the course of employment"? (3) Was it one "arising out of employment"? The answer to the second question really depends on whether the employee was acting within the scope of his employment. See references *infra.* As to the third question the prevailing view makes the test one of causation—was there any casual connection between the employment and the injury? See *McNicol's Case,* 215 Mass. 497; *Dennis* v. *A. J. White & Co.,* [1917] A. C., 479; 12 MICH. L. REV. 614,